

ELECTION

The Applicants respectfully elect, with traverse, prosecution of the claims in Group I, which comprises claims 6, 9-11, 13 and 22-66.

ARGUMENT

Applicants respectfully traverse the election requirement, which is based on the Patent Office's determination that the product can be produced by a materially different process. The Patent Office states that "the product as claimed in Group I can be made by another and materially different process such as one that does not require 'securing the fine positioner includes using a piezoelectric motor ...', 'disposing a push-pin through a push-pin hole ...', etc. as required by Group II."

First, the Applicants submit that at least part of the above-quoted language does not appear anywhere in any of the Applicants' Group II claims, which include claims 67-74. In fact, this language does not appear anywhere in any of the claims or in the specification. Specifically, the pending application does not include language to the effect of "disposing a push-pin through a push-pin hole".

Second, many of the claims in group I specifically include language wherein the fine positioner includes one or more piezoelectric motors, or wherein one of the features includes one or more piezoelectric motors. For example, claims 13, 23-32, 37-58 and 60-66 are each directed toward a disk drive including one or more piezoelectric motors. Accordingly, at least some of the claims of Group I cannot be made by a materially different process. Therefore, the applicants assert that the election requirement is improper, and should be withdrawn.

Third, many of the claims in Group II do not include language to the effect that "securing the fine positioner includes using a piezoelectric motor". For example, independent claim 67, and dependent claims 69 and 73 do not include any language that specifically references the use of one or more piezoelectric motors. Thus, at least claims 67, 69 and 73 should also be included in the claims of Group I.

For the above stated reasons, the Applicants respectfully submit that the restriction requirement is improper and should be withdrawn. As a consequence, pending claims 6, 9-11, 13 and 22-74 should all be examined together.